

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-00197-FDW

MICHAEL A. GADDY,)
)
Plaintiff,)
)
v.)
)
ROBERT A. SPRAGUE;)
T.E. GROSSE, II;)
ZACHARY M. RIGGAN,)
)
Defendants.)
_____)

ORDER

THIS MATTER is before the Court on consideration of Plaintiff's *pro se* complaint which he filed pursuant to 42 U.S.C. § 1983 in Mecklenburg County Superior Court. The matter was removed to this Court by the defendants based on the federal claims presented.

Plaintiff Michael Gaddy, who is a prisoner of the State of North Carolina, filed a § 1983 complaint in Mecklenburg County Superior Court in an effort to present a claim that the defendants, who are officers with the Charlotte-Mecklenburg Police Department ("CMPD"), violated his Fourth Amendment rights by conducting an unlawful search and seizure, and knowingly presented false and scandalous information to the district attorney which adversely influenced his prosecution.

Notwithstanding the present complaint, Plaintiff has filed three § 1983 actions in this district, that were either filed initially in this Court or removed from Mecklenburg County Superior Court based on the § 1983 claim. All three complaints name the same defendants and present roughly the same Fourth Amendment claim and prayer for relief. Each of the

complaints were dismissed without prejudice. See (3:13-cv-00299-RJC) (pretrial challenge to prosecution); Gaddy v. Sprague; Riggan; Grosse, II, 3:14-cv-00156-GCM (W.D.N.C. Mar. 18, 2015), appeal dismissed, No. 15-6575 (4th Cir. May 19, 2015) (pretrial complaint removed to this district and dismissed after summary judgment granted to defendants on ground that Plaintiff's conviction had not been set aside and finding it improper to second guess state court ruling on motion to suppress) (citing Heck v. Humphrey, 512 U.S. 477 (1994) and Rooker-Feldman doctrine)); 3:15-cv-00334-FDW (dismissal for same reasons, this time complaint filed after state judgment entered).¹

The facts of Plaintiff's collective complaints as identified above are summarized as follows:

Plaintiff Michael Gaddy names as defendants officers with the Charlotte-Mecklenburg Police Department ("CMPD") and alleges that the Defendants violated his state and federal constitutional rights when conducting a search of a hotel room where Plaintiff was present in August 2012. The search led to Plaintiff's indictment on several drug charges by a Mecklenburg County Grand Jury. Plaintiff filed a pretrial motion to suppress evidence that was obtained following the search which the trial court denied following an evidentiary hearing. Plaintiff then entered an Alford plea while expressly reserving his right to appeal the denial of his motion to suppress. On June 26, 2013, the charges were consolidated for judgment and Plaintiff was sentenced to a term of 70 to 93-months' imprisonment and Plaintiff appealed to the North Carolina Court of Appeals. On appeal, Plaintiff's sole challenge was to the legality of his sentence although it appears that he included the suppression issue in his record on appeal. See (3:15-cv-00334, Doc. No. 1-6 at 2). In challenging his sentence, Plaintiff argued that the trial court erred in imposing a maximum term of 93-months because the charges were consolidated into a Class F conviction for drug trafficking and the sentence that was imposed should have been imposed under the North Carolina law in force at the time of his offenses, and not the law in effect at the time of sentencing. The court of appeals agreed, and upheld Plaintiff's convictions, but vacated his sentence and remanded for resentencing. See State v. Gaddy, 768 S.E.2d 64 (N.C. Ct. App. Dec. 16, 2014). According to the website of the North Carolina Department of Public Safety, Plaintiff is presently incarcerated in the Gaston County Correctional Institution.²

¹ The findings and conclusions from these Orders are incorporated herein.

² Plaintiff's appellate counsel included a copy of the state court's order denying his motion to suppress evidence which is attached to the brief filed in the court of appeals as Appendix 1. See State v. Gaddy, No. COA14-360 (N.C. Ct. App. May 16, 2014). The Court takes judicial notice of this order which may be accessed on the North Carolina Court of Appeals Electronic Filing Site. See Witthohn v. Federal Ins. Co., et al., 164 F. App'x 395 (4th Cir. 2006)

(3:15-cv-334, Doc. No. 4: Order).

On or about January 25, 2016, Petitioner filed a petition for habeas relief pursuant to 28 U.S.C. § 2254, in an effort to challenge the June 26, 2013 judgment. (3:16-cv-00045-FDW, Doc. No. 1). Therein, Plaintiff presents the same Fourth Amendment arguments that have been presented to, and rejected by the state courts. The § 2254 petition is pending.

The Court finds that because Plaintiff's state judgment has not been set aside, his present complaint – his fourth such complaint dealing with the same facts and defendants – must be dismissed under the principles of Heck v. Humphrey and the Rooker-Feldman doctrine. See Gaddy v. Sprague, et al., 3:14-cv-156-GCM (W.D.N.C. Mar. 18, 2015) (explaining doctrines).

IT IS, THEREFORE, ORDERED that Plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE**. (Doc. No. 1-1).

IT IS FURTHER ORDERED that Defendants' motion to dismiss is **DISMISSED AS MOOT**. (Doc. No. 3). The Clerk is respectfully directed to close this civil case.

SO ORDERED.

Signed: May 13, 2016

A handwritten signature in black ink, reading "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

